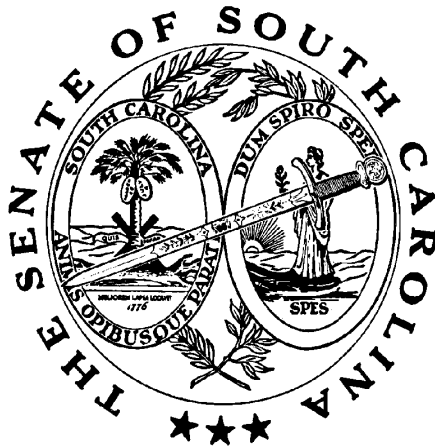


NO. 30

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



**REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009**

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**WEDNESDAY, MARCH 11, 2009**

**Wednesday, March 11, 2009**  
**(Statewide Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 2:00 P.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

The Psalmist declares:

“I will praise the Lord as long as I live; I will sing praises to my God all my life long.” (Psalm 146:2)

Let us pray:

Holy Lord, all around us this week we begin to discover the sounds of Springtime -- and we're not even at the Ides of March. Still, breezes whispering through the pines, streams and rivers lapping at and overflowing their banks, birds singing as they feast on early growth seeds and blossoms: it all truly warms our hearts. As we continue here in this Senate Chamber today, O God, reflecting upon how lovely the surroundings of this capital complex happen to be, fill our hearts with a sincere desire to honor You by the things we say and do. Bless each of these leaders; guide them well. In Your name we pray, dear Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Mark C. Sanford:

**Local Appointment**

Reappointment, Marlboro County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Gail R. McInnis, 1622 Tatum Highway, Clio, SC 29525

**Doctor of the Day**

Senator GROOMS introduced Dr. Marc D. New of North Charleston, S.C., Doctor of the Day.

**WEDNESDAY, MARCH 11, 2009**

**Leave of Absence**

At 2:05 P.M., Senator SHEHEEN requested a leave of absence beginning at 2:30 P.M. today and lasting until Tuesday, March 17, 2009, due to a death in the family.

**Leave of Absence**

On motion of Senator THOMAS, at 3:50 P.M., Senator COURSON was granted a leave of absence for the balance of the day.

**Expression of Personal Interest**

Senator SHEHEEN rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 435      Sen. Bryant  
S. 512      Sen. L. Martin  
S. 483      Sen. Elliott

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 558 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND EXPRESS DEEP APPRECIATION TO THE INDEPENDENT COLLEGES AND UNIVERSITIES IN SOUTH CAROLINA DURING "INDEPENDENT COLLEGE AND UNIVERSITY WEEK" OF APRIL 20-24, 2009, AND ON "INDEPENDENT COLLEGE AND UNIVERSITY DAY" ON APRIL 22, 2009, FOR THEIR OUTSTANDING CONTRIBUTIONS IN EDUCATING OUR STATE'S AND NATION'S YOUTH.

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The Concurrent Resolution was introduced and referred to the Committee on Invitations.

S. 559 -- Senator Courson: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO GIRLS STATE TO USE THE CHAMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON THURSDAY, JUNE 11, 2009, AND FRIDAY, JUNE 12, 2009.

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The Concurrent Resolution was introduced and referred to the Committee on Invitations.

S. 560 -- Senators McConnell, Land and Knotts: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROHIBITION ON LOTTERIES AND THE EXCEPTIONS TO THIS PROHIBITION, SO AS TO PROVIDE THAT THE GENERAL ASSEMBLY MAY ALLOW RAFFLES TO BE CONDUCTED BY CHARITABLE OR NONPROFIT ORGANIZATIONS AND BY GENERAL LAW MUST DEFINE THE TYPE OF ORGANIZATION ALLOWED TO CONDUCT RAFFLES, PROVIDE THE STANDARDS FOR THE CONDUCT AND MANAGEMENT OF THE RAFFLES, PROVIDE PENALTIES FOR VIOLATIONS, AND PROVIDE FOR ANY OTHER LAW NECESSARY TO ASSURE THE PROPER FUNCTIONING, HONESTY, INTEGRITY, AND CHARITABLE PURPOSES FOR WHICH THE RAFFLES ARE CONDUCTED.

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Senator McCONNELL spoke on the Resolution.

Read the first time and referred to the Committee on Judiciary.

S. 561 -- Senators Matthews, Malloy, Jackson, Land, Hutto, Leventis, Scott, Williams, Elliott and Anderson: A BILL PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE XI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE SYSTEM OF FREE PUBLIC SCHOOLS, SO AS TO PROVIDE THAT THE GENERAL ASSEMBLY SHALL PROVIDE FOR THE MAINTENANCE AND SUPPORT OF A SYSTEM OF FREE PUBLIC SCHOOLS AND SHALL ESTABLISH, ORGANIZE, AND SUPPORT PUBLIC INSTITUTIONS OF LEARNING THAT WILL PROVIDE A HIGH QUALITY EDUCATION, ALLOWING EACH STUDENT TO REACH HIS HIGHEST POTENTIAL.

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Senator MATTHEWS spoke on the Bill.

Read the first time and referred to the Committee on Judiciary.

**WEDNESDAY, MARCH 11, 2009**

S. 562 -- Senator McConnell: A BILL TO AMEND SECTION 56-5-750, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO THE FAILURE OF A DRIVER TO STOP A MOTOR VEHICLE WHEN SIGNALLED BY A LAW ENFORCEMENT VEHICLE, SO AS TO PROVIDE THAT A DRIVER MAY PROCEED TO A REASONABLY CLOSE AND SAFE LOCATION BEFORE STOPPING.

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Read the first time and referred to the Committee on Judiciary.

S. 563 -- Senators Rose and Knotts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 29 TO CHAPTER 7, TITLE 44 SO AS TO ENACT THE "COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM"; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO DEVELOP THE RATING SYSTEM; TO PROVIDE CERTAIN DEFINITIONS; TO PROVIDE REQUIREMENTS FOR THE RATING SYSTEM, INCLUDING A BASIS FOR DETERMINING A FACILITY'S RATING; TO AMEND SECTION 44-7-150, RELATING TO CERTAIN DUTIES OF THE DEPARTMENT, SO AS TO ADD DEVELOPMENT AND IMPLEMENTATION OF THE COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM; TO AMEND SECTION 44-7-310, RELATING TO THE PROHIBITION OF PUBLIC DISCLOSURE OF CERTAIN INFORMATION RECEIVED BY THE DEPARTMENT THROUGH INSPECTION OR OTHERWISE, SO AS TO PROVIDE AN EXCEPTION ALLOWING LIMITED DISCLOSURE OF THIS INFORMATION WHEN RELATED TO A COMMUNITY RESIDENTIAL CARE FACILITY; TO AMEND SECTION 44-7-315, AS AMENDED, RELATING TO DISCLOSURE OF INFORMATION REGARDING A FACILITY OR HOME LICENSED BY THE DEPARTMENT, SO AS TO PROVIDE AN EXCEPTION FOR A COMMUNITY RESIDENTIAL CARE FACILITY TO ACCOMPLISH THE RATING SYSTEM; AND TO AMEND SECTION 44-7-370, RELATING TO THE RESIDENTIAL CARE COMMITTEE, SO AS TO REQUIRE THE COMMITTEE TO EXPAND ITS DUTIES TO INCLUDE ADVISING THE DEPARTMENT WITH RESPECT TO THE COMMUNITY RESIDENTIAL CARE FACILITY STAR RATING SYSTEM.

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Senator ROSE spoke on the Bill.

Read the first time and referred to the Committee on Medical Affairs.

S. 564 -- Senator Elliott: A BILL TO AMEND SECTION 14-23-1040, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS FOR THE OFFICE OF JUDGE OF PROBATE, SO AS TO PROVIDE A PERSON CONVICTED OF A FELONY OFFENSE OR AN OFFENSE INVOLVING MORAL TURPITUDE IS NOT QUALIFIED TO SERVE AS A JUDGE OF PROBATE.

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Read the first time and referred to the Committee on Judiciary.

S. 565 -- Senator Elliott: A BILL TO AMEND SECTION 44-56-170, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HAZARDOUS WASTE INCINERATION FEES, SO AS TO PROVIDE THAT IN ADDITION TO EXISTING INCINERATION FEES, A FACILITY THAT INCINERATES HAZARDOUS WASTE AND IS CLASSIFIED AS A LARGE QUANTITY GENERATOR SHALL PAY AN ADDITIONAL FEE OF ONE HUNDRED DOLLARS FOR A TON DISPOSED BY INCINERATION, AND TO PROVIDE FOR THE EQUAL ALLOCATION OF THE FUNDS BETWEEN THE COUNTY FUND AND THE DEPARTMENT'S UNCONTROLLED SITE FUND.

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Read the first time and referred to the Committee on Medical Affairs.

S. 566 -- Senator Elliott: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND GEORGE RAYFORD VEREEN OF HORRY COUNTY FOR HIS MANY YEARS OF OUTSTANDING COMMUNITY SERVICE.

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The Senate Resolution was adopted.

S. 567 -- Senators Bright, S. Martin and Reese: A SENATE RESOLUTION TO CONGRATULATE LAUREN CABANISS ON WINNING THE SOUTH CAROLINA JUNIOR MISS

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COMPETITION AND BEING CHOSEN AS SOUTH CAROLINA'S REPRESENTATIVE IN THE MISS DANCE AMERICA COMPETITION, AND TO WISH HER MUCH SUCCESS AS SHE REPRESENTS SOUTH CAROLINA AT THE NATIONAL LEVEL FOR THE TITLES OF AMERICA'S JUNIOR MISS AND MISS DANCE AMERICA.

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The Senate Resolution was adopted.

S. 568 -- Senator Lourie: A SENATE RESOLUTION TO EXTEND WARMEST GREETINGS TO MR. SHEPHERD "SHEP" CUTLER OF RICHLAND COUNTY ON THE OCCASION OF HIS SEVENTIETH BIRTHDAY AND TO WISH HIM MANY YEARS OF HEALTH AND HAPPINESS TO COME.

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The Senate Resolution was adopted.

S. 569 -- Senator Lourie: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE SPRING VALLEY HIGH SCHOOL "LADY VIKINGS" BASKETBALL TEAM ON ITS IMPRESSIVE WIN OF THE 2009 CLASS AAAA STATE CHAMPIONSHIP TITLE, AND TO HONOR THE PLAYERS, COACHES, AND STAFF ON AN OUTSTANDING SEASON.

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The Senate Resolution was adopted.

S. 570 -- Senators Hayes, Peeler, Mulvaney and Coleman: A SENATE RESOLUTION TO RECOGNIZE YORK COUNTY AS A VITAL PART OF THE GREAT STATE OF SOUTH CAROLINA AND TO DECLARE MARCH 31, 2009, "YORK COUNTY DAY" IN SOUTH CAROLINA.

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The Senate Resolution was introduced and ordered placed on the Calendar without reference.

S. 571 -- Senator Elliott: A BILL TO AMEND SECTION 62-1-302, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REMOVAL OF CASES FROM PROBATE COURT TO CIRCUIT COURT, SO AS TO PROVIDE A PROBATE COURT MUST MAKE A FINDING OF GOOD CAUSE BEFORE A

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CASE MAY BE REMOVED FROM PROBATE COURT TO CIRCUIT COURT; TO PROVIDE A PROBATE COURT SHALL HOLD A HEARING ON A PARTY'S MOTION FOR REMOVAL AND ISSUE A WRITTEN ORDER MAKING A SPECIFIC FACTUAL FINDING THAT GOOD CAUSE FOR THE REMOVAL DOES NOT EXIST; AND TO PROVIDE REMOVAL FROM PROBATE COURT TO CIRCUIT COURT OF A MATTER WITHIN THE EXCLUSIVE JURISDICTION OF THE PROBATE COURT ONLY APPLIES TO THE PARTICULAR ACTION OR PROCEEDING BEING REMOVED, AND THE PROBATE COURT OTHERWISE RETAINS CONTINUING AND EXCLUSIVE JURISDICTION.

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Read the first time and referred to the Committee on Judiciary.

S. 572 -- Senator Sheheen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "ANN S. PERDUE INDEPENDENT AUTOPSY FAIRNESS ACT OF 2009", BY ADDING SECTION 44-43-730 SO AS TO PROVIDE THAT IF A PERSON DIES IN A HOSPITAL, THE HOSPITAL SHALL OFFER IN WRITING TO THE PATIENT'S FAMILY THE OPTION OF HAVING AN INDEPENDENT AUTOPSY PERFORMED; AND TO AMEND SECTION 17-5-530, RELATING TO CIRCUMSTANCES REQUIRING THE CORONER OR MEDICAL EXAMINER TO BE NOTIFIED OF CERTAIN DEATHS, SO AS TO REQUIRE SUCH NOTIFICATION WHEN A PERSON DIES IN A HEALTH CARE FACILITY WITHIN TWENTY FOUR HOURS OF ENTERING A HEALTH CARE FACILITY OR OF HAVING AN INVASIVE SURGICAL PROCEDURE PERFORMED.

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Read the first time and referred to the Committee on Medical Affairs.

S. 573 -- Banking and Insurance Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF INSURANCE, RELATING TO TAX CREDITS FOR FORTIFICATION MEASURES, DESIGNATED AS REGULATION DOCUMENT NUMBER 3205, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.



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Read the first time and ordered placed on the Calendar without reference.

H. 3560 -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THIS OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

Read the first time and referred to the Committee on Finance.

H. 3703 -- Reps. Kirsh and Simrill: A CONCURRENT RESOLUTION TO RECOGNIZE YORK COUNTY AS A VITAL PART OF THE GREAT STATE OF SOUTH CAROLINA AND TO DECLARE MARCH 31, 2009, "YORK COUNTY DAY" IN SOUTH CAROLINA.

On motion of Senator HAYES, with unanimous consent, the Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

**REPORTS OF STANDING COMMITTEES**

Senator HUTTO from the Committee on Judiciary submitted a favorable with amendment report on:

S. 107 -- Senators Ryberg, Bryant, Massey, Peeler and L. Martin: A BILL TO AMEND SECTION 16-3-654 OF THE 1976 CODE, RELATING TO CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE, TO INCLUDE SEXUAL BATTERY WHEN THE VICTIM IS A STUDENT SIXTEEN YEARS OF AGE OR OLDER AND THE ACTOR IS A PERSON EMPLOYED AT A PUBLIC OR PRIVATE SECONDARY SCHOOL, UNDER CERTAIN CIRCUMSTANCES.

Ordered for consideration tomorrow.

Senator CLEARY from the Committee on Judiciary submitted a favorable with amendment report on:

S. 170 -- Senators Cleary and Rose: A BILL TO AMEND TITLE 63, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-17-385 TO AUTHORIZE THE FAMILY COURT TO ISSUE A RULE TO SHOW CAUSE UPON

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THE FILING OF AN AFFIDAVIT THAT A PARENT HAS FAILED TO PAY COURT-ORDERED SUPPORT, OTHER THAN PERIODIC PAYMENT OF FUNDS FOR THE SUPPORT OF THE CHILD, TO PROVIDE FOR SERVICE BY REGULAR MAIL, TO PROVIDE THAT THE AFFIDAVIT AND CERTAIN OTHER DOCUMENTATION IS PRIMA FACIE EVIDENCE OF NONPAYMENT, SHIFTING THE BURDEN OF PROOF, AND TO PROVIDE A DEFENSE.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a majority favorable with amendment and Senator LEVENTIS a minority unfavorable report on:

S. 193 -- Senators McConnell and Campsen: A BILL TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VALUATION AND CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT THE OWNER-OCCUPANT OF RESIDENTIAL PROPERTY QUALIFIES FOR THE FOUR PERCENT ASSESSMENT RATIO ALLOWED OWNER-OCCUPIED RESIDENTIAL PROPERTY, IF THE OWNER IS OTHERWISE QUALIFIED AND THE RESIDENCE IS NOT RENTED FOR MORE THAN NINETY DAYS A YEAR; TO ALLOW REFUNDS OR CREDITS TO OWNER-OCCUPANTS WHO QUALIFY FOR THE FOUR PERCENT ASSESSMENT RATIO DUE TO THE AMENDMENTS CONTAINED HEREIN; TO DELETE OTHER REFERENCES TO RENTAL OF THESE RESIDENCES; AND TO AMEND SECTION 12-54-240 RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE THAT VERIFICATION THAT THE FEDERAL SCHEDULE E CONFORMS WITH THE SAME DOCUMENT REQUIRED BY A COUNTY ASSESSOR IS NOT PROHIBITED.

Ordered for consideration tomorrow.

Senator THOMAS from the Committee on Banking and Insurance submitted a favorable report on:

S. 202 -- Senator Thomas: A BILL TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE

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38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF "ADMITTED ASSETS" TO INCLUDE THOSE ON THE INSURER'S MOST RECENT STATUTORY FINANCIAL STATEMENT FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38-13-80 INSTEAD OF THOSE ADMITTED UNDER THE PROVISIONS OF SECTION 38-11-100; TO AMEND SECTION 38-9-10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38-10-40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-33-130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38-55-80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

Ordered for consideration tomorrow.

Senator FAIR from the Committee on Corrections and Penology submitted a favorable report on:

S. 218 -- Senators Fair and Leventis: A BILL TO AMEND SECTIONS 24-13-210 AND 24-13-230, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GOOD BEHAVIOR, WORK, AND ACADEMIC CREDITS, SO AS TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS TO ESTABLISH POLICIES AND PROCEDURES TO RESTORE TO AN INMATE GOOD-TIME CREDIT LOST FOR

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A DISCIPLINARY ACTION IF THE INMATE IS NOT FOUND GUILTY OF A SUBSEQUENT DISCIPLINARY ACTION, TO ALLOW THE DIRECTOR TO AWARD GOOD-TIME CREDIT TO AN INMATE WHO PERFORMS CERTAIN MERITORIOUS ACTS, AND TO PROVIDE THAT THE DIRECTOR MUST ESTABLISH POLICIES AND PROCEDURES TO ALLOW CERTAIN PRISONERS WHO ARE ENROLLED IN CERTAIN PROGRAMS THAT INCLUDE SELF-HELP PROGRAMS TO RECEIVE A REDUCTION IN THEIR SENTENCES; TO AMEND SECTION 24-27-200, RELATING TO THE FORFEITURE OF WORK, EDUCATION, OR GOOD CONDUCT CREDITS, SO AS TO PROVIDE THAT A REDUCTION IN THESE CREDITS MAY BE IMPLEMENTED PURSUANT TO AN ADMINISTRATIVE LAW JUDGE'S RECOMMENDATION; AND TO AMEND SECTION 30-4-40, AS AMENDED, RELATING TO MATTERS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, SO AS TO PROVIDE THAT CERTAIN ARCHITECTURAL PLANS, DRAWINGS, OR SCHEMATICS OR LAW ENFORCEMENT POLICIES WHOSE DISCLOSURE WOULD REASONABLY BE USED TO FACILITATE AN ESCAPE FROM LAWFUL CUSTODY MAY BE EXEMPT FROM DISCLOSURE.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 239 -- Senators Massey and Rose: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-7-67 ENACTING THE "APPROPRIATIONS BILL EARMARK DISCLOSURE ACT", TO PROVIDE FOR THE DISCLOSURE OF INFORMATION SURROUNDING EARMARKS REQUESTED BY MEMBERS OF THE GENERAL ASSEMBLY FOR INCLUSION IN AN APPROPRIATIONS BILL, TO PROVIDE DEFINITIONS APPLICABLE FOR THIS DISCLOSURE, AND TO PROVIDE FOR THE ENFORCEMENT OF THESE DISCLOSURE REQUIREMENTS.

Ordered for consideration tomorrow.

Senator THOMAS from the Committee on Banking and Insurance submitted a favorable report on:

[SJ]

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S. 301 -- Senator Malloy: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 38-9-225 AND 38-9-230 SO AS TO ENACT PROVISIONS REQUIRING CERTAIN INSURERS TO FILE A STATEMENT OF ACTUARIAL OPINION AND ACTUARIAL OPINION SUMMARY ANNUALLY AND PROVIDE FOR THE CONFIDENTIALITY OF THESE DOCUMENTS; TO AMEND SECTION 38-5-120, RELATING TO THE REVOCATION OR SUSPENSION OF LICENSE OF AN INSURER AND ITS OFFICERS AND AGENTS FOR THE PUBLICATION OF THE NOTICE, SO AS TO PROVIDE A PROCEDURE FOR AN AGGRIEVED INSURER TO REQUEST A HEARING BEFORE THE DIRECTOR OR HIS DESIGNEE AND PROVIDE RECOURSE THROUGH JUDICIAL REVIEW; TO AMEND SECTION 38-9-330, RELATING TO THE DEFINITION OF "COMPANY ACTION LEVEL EVENT", SO AS TO REDEFINE THE TERM; AND TO AMEND SECTION 38-21-95, RELATING TO APPROVAL FOR ACQUISITION OF A DOMESTIC INSURER BY A CONTROLLING PRODUCER IN ANOTHER STATE, SO AS TO DELETE THE APPLICABILITY TO FOREIGN PRODUCERS AND CORRECT INCORRECT REFERENCES.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 304 -- Senators Leatherman, Alexander, Land, Campsen and Grooms: A BILL TO AMEND SECTION 6-1-760 OF THE 1976 CODE, RELATING TO REVENUE BONDS, TO PROVIDE THAT THE PROCEEDS OF LOCAL ACCOMMODATIONS FEES, HOSPITALITY FEES, AND STATE ACCOMMODATIONS FEES MAY BE PLEDGED AS SECURITY, AND TO AMEND SECTION 6-4-10, RELATING TO STATE ACCOMMODATIONS FEES, TO PROVIDE THAT FEES ALLOCATED FOR ADVERTISING AND PROMOTING TOURISM MAY NOT BE PLEDGED AS SECURITY.

Ordered for consideration tomorrow.

Senator THOMAS from the Committee on Banking and Insurance submitted a favorable with amendment report on:

S. 323 -- Senator Thomas: A BILL TO AMEND SECTION 38-90-20, AS AMENDED, CODE OF LAWS OF SOUTH

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CAROLINA, 1976, RELATING TO LICENSING OF A CAPTIVE INSURANCE COMPANY, SO AS TO AUTHORIZE A COMPANY TO WRITE WORKERS' COMPENSATION INSURANCE ON A DIRECT BASIS, AND TO AUTHORIZE AN ADDITIONAL PROCESSING FEE FOR AN APPLICATION TO BE CHARGED AS DETERMINED APPROPRIATE BY THE DIRECTOR OR HIS DESIGNEE GIVEN THE NATURE OF THE APPLICATION BEING INVESTIGATED; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO AUTHORIZE A FRONT COMPANY OF A BRANCH CAPTIVE INSURANCE COMPANY TO POST SECURITY FOR LOSS RESERVES ON BRANCH BUSINESS; TO AMEND SECTION 38-90-55, RELATING TO INCORPORATION OF A CAPTIVE REINSURANCE COMPANY, SO AS TO CHANGE MANDATORY TO PRECATORY CONSIDERATION BY THE DIRECTOR OF FACTORS IN ARRIVING AT A FINDING; TO AMEND SECTION 38-90-60, AS AMENDED, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS OF A PURE CAPTIVE INSURANCE COMPANY, SO AS TO CHANGE THE CRITERIA FOR MAKING A FINDING BY THE DIRECTOR OR HIS DESIGNEE TO ISSUE A CERTIFICATE TO AN ALIEN CAPTIVE INSURANCE COMPANY; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTS REQUIRED TO BE SUBMITTED BY A CAPTIVE INSURANCE COMPANY TO THE DIRECTOR, SO AS GRANT THE DIRECTOR THE AUTHORITY TO GRANT OR WAIVE THE REQUIREMENTS OF THIS SECTION; TO AMEND SECTION 38-90-75, RELATING TO DISCOUNTING A LOSS AND LOSS ADJUSTMENT EXPENSE RESERVES, SO AS TO PROVIDE THE SECTION APPLIES TO A CAPTIVE INSURANCE COMPANY AND NOT A SPONSORED COMPANY, DELETE THE MANNER IN WHICH THE RESERVES WERE DISCOUNTED AND PROVIDE THAT THIS PROCESS MAY BE ACCOMPLISHED WITH PRIOR WRITTEN APPROVAL BY THE DIRECTOR; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF A CAPTIVE INSURANCE COMPANY, SO AS TO INCREASE FROM THREE TO FIVE YEARS THE INTERVAL OF THE INSPECTIONS AND EXAMINATIONS AND AUTHORIZE THE DIRECTOR TO WAIVE THE REQUIREMENT

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FOR A VISIT TO CERTAIN COMPANIES; TO AMEND SECTION 38-90-90, RELATING TO SUSPENSION OR REVOCATION OF THE LICENSE OF A CAPTIVE INSURANCE COMPANY, SO AS TO AUTHORIZE THE DIRECTOR TO IMPOSE A FINE INSTEAD OF REVOKING OR SUSPENDING A LICENSE; TO AMEND SECTION 38-90-130, RELATING TO THE PROHIBITION OF A CAPTIVE INSURANCE COMPANY FROM PARTICIPATING IN A PLAN, POOL, ASSOCIATION, OR GUARANTY OR INSOLVENCY FUND, SO AS TO AUTHORIZE A COMPANY TO PARTICIPATE IN A POOL FOR THE PURPOSE OF COMMERCIAL RISK SHARING UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO THE APPLICABILITY OF CERTAIN PROVISIONS TO CAPTIVE INSURANCE COMPANIES, SO AS TO MAKE THE PROVISIONS OF CHAPTERS 26 AND 27 APPLICABLE TO CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-440, AS AMENDED, RELATING TO LICENSING OF A SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANY, SO AS TO PROVIDE THE BASIS FOR CALCULATING A PROCESSING FEE, AND CLARIFY THAT SIX THOUSAND DOLLARS BASED ON A MINIMUM FEE OF TWELVE THOUSAND DOLLARS IS PAYABLE UPON FILING OF THE APPLICATION; TO AMEND SECTION 38-90-450, AS AMENDED, RELATING TO THE ORGANIZATION REQUIREMENTS OF A SPECIAL PURPOSE FINANCIAL CAPTIVE, SO AS TO CHANGE FROM MANDATORY TO PRECATORY BY THE DIRECTOR WHEN ISSUING A CERTIFICATE; AND TO AMEND SECTION 38-90-560, RELATING TO EXAMINATIONS BY THE DIRECTOR OF A SPECIAL PURPOSE FINANCIAL CAPTIVE INSURANCE COMPANY, SO AS TO INCREASE FROM THREE TO FIVE YEARS THE INTERVAL THAT A COMPANY MUST BE INSPECTED AND DELETE THE AUTHORITY OF THE DIRECTOR TO ENLARGE THE PERIOD OF INSPECTION UNDER CERTAIN CIRCUMSTANCES.

Ordered for consideration tomorrow.

Senator FAIR from the Committee on Corrections and Penology submitted a favorable report on:

[SJ]

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S. 329 -- Senator Fair: A BILL TO AMEND ARTICLE 5, CHAPTER 3, TITLE 24 OF THE 1976 CODE BY ADDING SECTION 24-3-580, TO PROHIBIT THE DISCLOSURE OF THE IDENTITY OF MEMBERS OF AN EXECUTION TEAM AND TO ALLOW FOR CIVIL PENALTIES FOR A VIOLATION OF THE SECTION, AND BY ADDING SECTION 24-3-590, TO PROHIBIT LICENSING AGENCIES FROM TAKING ANY ACTION TO REVOKE, SUSPEND, OR DENY A LICENSE TO ANY PERSON WHO PARTICIPATES ON AN EXECUTION TEAM.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 332 -- Senator Leventis: A BILL TO AMEND SECTIONS 6-1-530 AND 6-1-730, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO USES ALLOWED FOR THE REVENUE OF THE LOCAL ACCOMMODATIONS AND LOCAL HOSPITALITY TAX, SO AS TO INCREASE FROM TWENTY TO FIFTY PERCENT, IN COUNTIES IN WHICH LESS THAN NINE HUNDRED THOUSAND DOLLARS IN STATE ACCOMMODATIONS TAX IS COLLECTED ANNUALLY, THE AMOUNT OF THE REVENUE OF THE LOCAL TAXES THAT MAY BE USED FOR OPERATIONS AND MAINTENANCE.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 345 -- Senator Leatherman: A BILL TO AMEND SECTION 8-11-65 OF THE 1976 CODE, RELATING TO LEAVES OF ABSENCE TO BE AN ORGAN DONOR, TO PROVIDE THAT THE NUMBER OF DAYS A PERSON MAY MISS EACH YEAR TO DONATE THEIR ORGANS SHALL BE COUNTED IN A CALENDAR YEAR INSTEAD OF A FISCAL YEAR; AND TO AMEND SECTION 8-11-120, RELATING TO THE POSTING OF JOB VACANCIES BEFORE THE VACANCY IS FILLED, TO REVISE AND SIMPLIFY THE REQUIREMENTS FOR THE NOTICE.

Ordered for consideration tomorrow.



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Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 360 -- Senator Hayes: A BILL TO AMEND SECTION 4-10-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IMPOSITION OF A ONE PERCENT CAPITAL PROJECT SALES AND USE TAX BY A COUNTY GOVERNING BODY, SO AS TO DELETE A REQUIREMENT THAT THE TAX IS TO COLLECT A LIMITED AMOUNT OF MONEY; TO AMEND SECTION 4-10-330, AS AMENDED, RELATING TO THE COUNTY ORDINANCE AND BALLOT QUESTION FOR THE REFERENDUM REQUIRED, SO AS TO FURTHER PROVIDE FOR THE CONTENTS OF THE ORDINANCE AND THE DATES AND PURPOSES OF THE REFERENDUM; AND TO AMEND SECTION 4-10-340, AS AMENDED, RELATING TO THE IMPOSITION AND TERMINATION OF THE TAX, SO AS TO FURTHER PROVIDE FOR THE TERMINATION OF A NEWLY IMPOSED AND A REIMPOSED TAX.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Judiciary submitted a favorable report on:

S. 363 -- Senator Alexander: A BILL TO AMEND SECTION 23-41-20 OF THE 1976 CODE, RELATING TO THE ARSON REPORTING IMMUNITY ACT, TO ADD CERTAIN PUBLIC SAFETY OFFICIALS TO THE LIST OF AGENCIES AUTHORIZED TO RECEIVE INFORMATION FROM AN INSURANCE COMPANY.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Judiciary submitted a favorable report on:

S. 364 -- Senator Alexander: A BILL TO AMEND CHAPTER 9, TITLE 23 OF THE 1976 CODE, BY ADDING SECTION 23-9-25 TO ENACT THE "VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT PROGRAM" (V-SAFE) WHOSE PURPOSE, CONTINGENT UPON THE GENERAL ASSEMBLY APPROPRIATING APPROPRIATE FUNDS, IS TO OFFER GRANTS TO ELIGIBLE VOLUNTEER AND COMBINATION FIRE DEPARTMENTS FOR THE PURPOSE OF PROTECTING LOCAL COMMUNITIES AND REGIONAL RESPONSE AREAS FROM

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INCIDENTS OF FIRE, HAZARDOUS MATERIALS, TERRORISM, AND TO PROVIDE FOR THE SAFETY OF VOLUNTEER FIREFIGHTERS, TO PROVIDE DEFINITIONS OF CERTAIN TERMS, AND TO PROVIDE FOR THE ADMINISTRATION OF THE GRANTS.

Ordered for consideration tomorrow.

Senator LOURIE from the Committee on Judiciary submitted a favorable with amendment report on:

S. 383 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 15, TITLE 63 SO AS TO ENACT THE "UNIFORM CHILD ABDUCTION PREVENTION ACT", TO PROVIDE A LEGAL MECHANISM TO PROTECT CHILDREN FROM CREDIBLE RISKS OF ABDUCTION RELATED TO LEGAL CUSTODY OR VISITATION.

Ordered for consideration tomorrow.

Senator THOMAS from the Committee on Banking and Insurance submitted a favorable with amendment report on:

S. 390 -- Senator Hayes: A BILL TO ENACT THE "MENTAL HEALTH PARITY AND ADDICTION ACT OF 2009"; AND TO AMEND SECTION 38-71-880, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEDICAL AND SURGICAL BENEFITS AND MENTAL BENEFITS COVERAGE, SO AS TO ADD PROVISIONS RELATING TO SUBSTANCE USE DISORDER COVERAGE, FINANCIAL REQUIREMENTS, AND TREATMENT LIMITATIONS AND TO PROVIDE FOR DEFINITIONS.

Ordered for consideration tomorrow.

Senator L. MARTIN from the Committee on Judiciary submitted a majority favorable with amendment and Senator HUTTO a minority unfavorable report on:

S. 424 -- Senators Bright, S. Martin, Alexander, Campbell, Fair, Knotts, Cromer, Mulvaney, Verdin, L. Martin, Shoopman, Rose, McConnell, Thomas, Cleary, Courson, Coleman, Davis, Reese, Campsen, Grooms, Ryberg, Peeler, O'Dell, Bryant and Massey: A CONCURRENT RESOLUTION TO AFFIRM SOUTH CAROLINA'S SOVEREIGNTY UNDER THE TENTH AMENDMENT TO THE

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UNITED STATES CONSTITUTION OVER ALL POWERS NOT ENUMERATED AND GRANTED TO THE FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 483 -- Senators Rankin, Cleary, McGill and Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 10, TITLE 4 ENACTING THE "LOCAL OPTION TOURISM DEVELOPMENT FEE ACT" SO AS TO ALLOW A COUNTY IN WHICH AT LEAST FOURTEEN MILLION DOLLARS OF STATE ACCOMMODATIONS TAX REVENUES HAVE BEEN COLLECTED IN A FISCAL YEAR AND A MUNICIPALITY LOCATED IN SUCH A COUNTY TO IMPOSE A FEE NOT TO EXCEED ONE PERCENT OF AMOUNTS SUBJECT TO TAX PURSUANT TO CHAPTER 36, TITLE 12, THE SOUTH CAROLINA SALES AND USE TAX ACT, FOR NOT MORE THAN TEN YEARS, TO PROVIDE THAT THE COUNTY MAY IMPOSE THE FEE BY ORDINANCE IN THE UNINCORPORATED AREAS OF THE COUNTY AND A MUNICIPALITY MAY IMPOSE THE FEE BY ORDINANCE IN THE MUNICIPALITY, TO PROVIDE FOR THE ADMINISTRATION OF THE FEE, AND TO PROVIDE USES FOR WHICH THE FEE REVENUE MUST BE APPLIED, INCLUDING TOURISM PROMOTION, PROPERTY TAX ROLLBACK, AND CAPITAL PROJECTS PROMOTING TOURISM CAUSES.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 501 -- Senator Leatherman: A BILL TO ENACT THE PROVISOR CODIFICATION ACT OF 2009, TO PROVIDE FOR THE CODIFICATION IN THE SOUTH CAROLINA CODE OF LAWS OF CERTAIN PROVISORS CONTAINED IN THE ANNUAL GENERAL APPROPRIATIONS ACT, AND TO PROVIDE FOR OTHER PROVISIONS RELATED TO THE ANNUAL GENERAL APPROPRIATIONS ACT EFFECTIVE FOR FISCAL YEAR 2009-2010 ONLY.

Ordered for consideration tomorrow.

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Senator HUTTO from the Committee on Judiciary submitted a favorable with amendment report on:

H. 3452 -- Reps. Bannister, Bales, Crawford, Limehouse, G.M. Smith, J.E. Smith and Frye: A BILL TO AMEND SUBARTICLE 11, ARTICLE 3, CHAPTER 6, TITLE 61, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGULATION OF MANUFACTURERS OF ALCOHOLIC LIQUORS, SO AS TO INCLUDE REGULATION OF MICRO-DISTILLERS OF ALCOHOLIC LIQUORS ON LICENSED PREMISES, TO DEFINE NECESSARY TERMS, TO PROVIDE A BIENNIAL DISTILLERY LICENSE FEE, TO PROVIDE PROCEDURES FOR WHO MAY OBTAIN A LICENSE, TO PROVIDE RESTRICTIONS ON THE LICENSE, TO PROVIDE FOR APPLICATIONS FOR TASTINGS AND LIMITATIONS ON TASTINGS, AND TO PROVIDE A PENALTY FOR PERSONS WHO VIOLATE THE PROVISIONS OF THE SUBARTICLE.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Invitations polled out H. 3665 favorable:

H. 3665 -- Reps. Crawford, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO BOYS STATE TO USE THE CHAMBERS OF THE

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HOUSE OF REPRESENTATIVES AND THE SENATE ON  
FRIDAY, JUNE 12, 2009, FROM 12:00 NOON TO 1:00 P.M. FOR  
ITS ANNUAL STATE HOUSE MEETING.

**Poll of the Invitations Committee**  
**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Knotts	Alexander	O'Dell
McGill	Reese	Elliott
Ford	Verdin	Campsen
Cromer	Malloy	

**Total--11**

**NAYS**

**Total--0**

**NOT VOTING**

**Total--0**

Ordered for consideration tomorrow.

**HOUSE CONCURRENCES**

S. 539 -- Senator Knotts: A CONCURRENT RESOLUTION TO CONGRATULATE TERRY D. WINGARD, OF LEXINGTON COUNTY, WING COMMAND CHIEF MASTER SERGEANT OF THE 169<sup>TH</sup> FIGHTER WING OF THE SOUTH CAROLINA AIR NATIONAL GUARD, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR HIS FORTY YEARS OF DEDICATED SERVICE, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

Returned with concurrence.

Received as information.

S. 557 -- Senator Jackson: A CONCURRENT RESOLUTION TO CONGRATULATE LIEUTENANT ULYSSES FLEMMING, SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES LAW

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ENFORCEMENT OFFICER, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR NEARLY FORTY YEARS OF DEDICATED SERVICE TO THE STATE OF SOUTH CAROLINA, AND TO EXTEND BEST WISHES FOR MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

Returned with concurrence.

Received as information.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**SECOND READING BILLS**

The following Joint Resolutions, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 545 -- Transportation Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, COMMISSIONERS OF PILOTAGE, RELATING TO PILOT AND APPRENTICE AGE LIMITATIONS; SHORT BRANCH QUALIFICATIONS; PILOT FUNCTIONS AND RESPONSIBILITIES; AND PENALTIES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4041, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Senator GROOMS explained the Joint Resolution.

**Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of S. 545.

S. 548 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO LICENSING OF ONSITE WASTEWATER SYSTEM MASTER CONTRACTORS, DESIGNATED AS REGULATION DOCUMENT NUMBER 3210, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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S. 549 -- Medical Affairs Committee: A JOINT RESOLUTION TO DISAPPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO ENVIRONMENTAL PROTECTION FEES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4015, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of S. 549.

S. 550 -- Medical Affairs Committee: A JOINT RESOLUTION TO DISAPPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO ENVIRONMENTAL PROTECTION FEES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4014, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of S. 550.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

S. 19 -- Senator Fair: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-116-45 SO AS TO PROVIDE THAT EVERY POLICE/SECURITY DEPARTMENT SHALL IMPLEMENT POLICIES AND PROCEDURES TO GOVERN THEIR OPERATIONS; TO AMEND SECTIONS 59-116-10, 59-116-20, 59-116-30, 59-116-50, 59-116-60, 59-116-80, 59-116-100, AND 59-116-120, RELATING TO THE ESTABLISHMENT, POWERS, AND OPERATION OF CAMPUS SECURITY DEPARTMENTS, SO AS TO REVISE THE DEFINITION OF THE TERMS "CAMPUS" AND "CAMPUS POLICE OFFICER", AND TO DEFINE THE TERM "CAMPUS SECURITY OFFICER", TO MAKE TECHNICAL CHANGES, TO REVISE THE JURISDICTIONAL BOUNDARY OF A CONSTABLE AND SECURITY OFFICER, AND TO REVISE THE MARKINGS

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THAT MAY APPEAR ON A CAMPUS POLICE OFFICER'S VEHICLE AND TO PROVIDE FOR THE USE OF CAMPUS UNMARKED VEHICLES; AND TO REPEAL SECTION 59-116-70, RELATING TO THE POSTING OF A BOND BY A CAMPUS POLICE OFFICER BEFORE THE ASSUMPTION OF THEIR DUTIES.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Education.

The Committee on Education proposed the following amendment (SWB\5733CM09), which was adopted:

Amend the bill as and if amended, by deleting SECTION 4 in its entirety and inserting:

/ SECTION 4. Section 59-116-30 of the 1976 Code is amended to read:

"Section 59-116-30. (A) Campus police officers are peace officers. While in the performance of the duties of their employment, they have all the powers of municipal and county police officers to make arrests for both felonies and misdemeanors and possess all of the common law and statutory powers, privileges, and immunities of police officers. Campus police officers shall:

(1) preserve the peace, maintain order, and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions and protect all persons and property located there from injury, harm, and damage;

(2) enforce and assist the officials of their respective institutions in the enforcement of the laws of the State and county and municipal ordinances, and the lawful regulations of the institution, and assist and cooperate with other law enforcement agencies and officers. Campus police officers shall exercise powers granted in this chapter ~~only upon the real property owned by their respective institutions~~ as defined in ~~item (1) of Section 59-116-10 and Section 59-116-20.~~

(B) Campus police officers may arrest persons outside the territory described in subsection (A) when the person arrested has committed a criminal offense within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

(C) ~~Safety and security~~ Police/security departments created and operated by the ~~boards of trustees~~ governing bodies of private institutions under this chapter for the purposes of this chapter are



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campus ~~police~~ police/security departments, ~~and the sworn~~ Sworn campus police officers of the department are campus police officers and security officers of the department are security officers. As contained in this section, 'campus security officer' means an employee of a private college or university whose duties include the enforcement of the laws of this State as governed by S.C. Code of Regulations R. 73-400 through 73-422, the preservation of public order, the protection of life and property, the prevention, detection, or public investigation of a crime, or a combination of those duties. It does not include personnel of a private company which provides security services on a contract basis for the institution concerned.

(D) Campus ~~police~~ police/security officers may designate and operate emergency vehicles and patrol cars in the manner provided by law for municipal and county law enforcement officers. ~~Such a vehicle~~ These regular assigned patrol vehicles or units must bear distinctive and conspicuous lettering which reads "campus police" on the sides and rear of the vehicle and markings on the sides and rear of the vehicle which provide clear identification of the agency and institution. The chief law enforcement executive for each agency or institution may designate unmarked vehicles assigned to administrative, special, or investigative duties which must be operated in the manner provided by law for municipal and county law enforcement officers.

The provisions of this chapter may not be construed as a diminution or modification of the authority or responsibility of a municipal police department, sheriff, constable, or other peace officer either on the property of an institution or otherwise." /

Renumber sections to conform.

Amend title to conform.

Senator FAIR explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

#### **COMMITTEE AMENDMENT ADOPTED**

#### **READ THE SECOND TIME**

S. 185 -- Senator McConnell: A BILL TO AMEND SECTION 56-3-230, CODE OF LAWS OF SOUTH CAROLINA, 1976,

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RELATING TO THE DEPARTMENT OF MOTOR VEHICLES APPLICATION FOR THE REGISTRATION AND LICENSING OF A VEHICLE, SO AS TO PROVIDE THAT THE APPLICATION MUST INCLUDE A VALID COPY OF THE OWNER'S SOUTH CAROLINA DRIVER'S LICENSE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Transportation.

The Committee on Transportation proposed the following amendment (185R001.LKG), which was adopted:

Amend the bill, as and if amended, page 1, by striking line 31 and inserting:

/ South Carolina driver's license, South Carolina identification card, or valid active duty military identification card if the owner is a person on active military duty and is stationed in this State. /

Amend the bill further, as and if amended, page 1, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_ A. Section 56-19-240 of the 1976 Code is amended to read:

"Section 56-19-240. ~~(1)~~(A) An application for a certificate of title for a vehicle in this State must be made by the owner to the Department of Motor Vehicles on the form it prescribes and must contain or be accompanied by:

~~(a)(1) the name and residence and mailing address of the owner;~~  
if the owner is an individual:

(a) the South Carolina residence address of the owner and mailing address, if different from residence address;

(b) the full legal name as it appears on the identification provided in item (d);

(c) the issuing state and number of the identification provided in item (d);

(d) in order to fulfill the requirements in items (a) through (c), the owner must provide one of the following:

(i) the owner's South Carolina driver's license or South Carolina identification card;

(ii) the owner's home state driver's license or home state special identification card and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State;

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(iii) the owner's home state driver's license or home state special identification card and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State; or

(iv) the owner's home state driver's license or home state special identification card if the owner or co-owner intends to principally garage the vehicle in this State. 'Principally garage' means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle. The application for a certificate of title must include the South Carolina residence address of the property where the vehicle is housed;

(2) if the owner is a business;

(a) a social security number, if the business is a sole proprietorship with no employees or a Federal Employer Identification Number (FEIN), if the business has employees; or

(b) a South Carolina physical address of the bona fide place of business operations for the business;

(3) for vehicles that have more than one owner, only one co-owner is required to provide the information requested under item (2) of this subsection;

(4) an owner who would otherwise be capable of attaining a driver's license or special identification card from this State, except for a medical or physical condition that can be documented and verified by the department, shall be issued a title and registration if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State, that the vehicle will be driven by a driver who is not the owner, and if the owner provides the South Carolina address where the vehicle will be principally garaged;

~~(b)~~(5) a description of the vehicle, including, so far as the following data exists, its make, model, year, vehicle identification number, type of body, odometer reading at the time of application, and whether new or used;

~~(e)~~(6) the date of acquisition by applicant, the name and address of the person from whom the vehicle was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

~~(d)~~(7) an odometer disclosure statement made by the transferor of the vehicle and acknowledged by the transferee. The statement must be in compliance with federal guidelines and as prescribed by the

department. Where more than one transfer has intervened between the previous certificate of title and the application for a new certificate of title, it must be shown that the certificate of title has been signed by the owner or by the owner's attorney in fact, and there must be for each intervening transfer thereafter a bill of sale in a form approved by the department, including a completed odometer disclosure statement. Additionally, the odometer disclosure statement on the application form must be completed by the applicant;

~~(e)~~(8) any further information or documentation the department reasonably requires to enable it to determine: the identity of the vehicle, whether the owner is entitled to a certificate of title, the existence or nonexistence of security interests in the vehicle, and the accuracy of the odometer disclosure statement.

~~(2)~~(B) If the application is not for the first certificate of title, it shall be accompanied by the last certificate of title previously issued for the vehicle, whether issued by this State or another state or country.

~~(3)~~(C) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and be signed by the dealer as well as the owner, and the dealer shall promptly mail or deliver the application to the department. If the application refers to a new vehicle purchased from a dealer, the application shall also be accompanied by the manufacturer's certificate of origin.

(D) The department will issue a title and registration only for vehicles that are physically located and primarily operated in this State. Vehicles that are purchased for operation in a foreign jurisdiction cannot be titled and registered in South Carolina.

~~(4)~~(E) A person who knowingly gives a false statement on the application or knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to one thousand dollars or imprisonment of up to one year, or both. These penalties are in addition to the penalties provided by the federal odometer law 49 U.S.C. 32701-32711 (Title 49, Subtitle VI, Part C, Chapter 327).

~~(5)~~(F) In addition to the other information required in an application, the application for title for a mobile or manufactured home must include the address of the site on which the home is to be placed if different from the owner's address."

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B. The provisions contained in this SECTION take effect January 1, 2010, and apply to applications for registration and title made on or after that date. /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of S. 185.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED  
CARRIED OVER**

S. 255 -- Senator L. Martin: A BILL TO AMEND SECTION 56-3-3310 OF THE 1976 CODE, AS AMENDED, RELATING TO THE ISSUANCE OF PURPLE HEART SPECIAL LICENSE PLATES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE THAT THERE IS NO FEE FOR UP TO TWO LICENSE PLATES AND THE BIENNIAL FEE FOR ANY ADDITIONAL PURPLE HEART LICENSE PLATES IS THE SAME AS THE FEE PROVIDED IN ARTICLE 5, CHAPTER 3 OF THIS TITLE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Transportation.

Senator GROOMS proposed the following amendment (255R002.LKG), which was adopted:

Amend the Committee Report, as and if amended, page [255-1], by striking lines 24 - 29 and inserting:

// Amend the bill, as and if amended, page 1, by striking line 29 and inserting:

/ There is no fee for the issuance of up to four license ~~plate~~ plates,/ //

Renumber sections to conform.

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Amend title to conform.

Senator GROOMS explained the amendment.

The perfecting amendment was adopted.

The Committee on Transportation proposed the following amendment (255R001.LKG), which was adopted:

Amend the bill, as and if amended, page 1, by striking line 26 - 28 and inserting:

/ "Section 56-3-3310. The department may issue a no more than four permanent special motor vehicle license ~~plate~~ plates to a recipient of the Purple Heart for use on a his private passenger motor ~~vehicle~~ vehicles or motorcycle motorcycles. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

On motion of Senator GROOMS, the Bill was carried over, as amended.

#### **ADOPTED**

H. 3349 -- Reps. Barfield, Hearn, Viers and Hardwick: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 501 IN HORRY COUNTY THAT RUNS THROUGH THE TOWN OF AYNOR THE "W. G. HUCKS HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "W. G. HUCKS HIGHWAY".

The Concurrent Resolution was adopted, ordered returned to the House.

#### **Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the adoption of H. 3349.

S. 552 -- Senators Courson, Rose, Fair and L. Martin: A CONCURRENT RESOLUTION RECOGNIZING THE DILIGENT

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EFFORTS OF HOME SCHOOLING PARENTS AND THE ACADEMIC SUCCESS OF THEIR STUDENTS, EXPRESSING SINCERE APPRECIATION FOR THEIR FOCUS ON THE WELL-BEING AND OVERALL ACHIEVEMENTS OF THEIR CHILDREN, AND DECLARING APRIL 2009, HOME SCHOOL RECOGNITION MONTH.

The Concurrent Resolution was adopted, ordered sent to the House.

**Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the adoption of H. 552.

**OBJECTION**

H. 3144 -- Rep. Hosey: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION TO NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 125 UNDER STATE JURISDICTION FROM ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 3 IN ALLENDALE COUNTY TO ITS INTERSECTION WITH THE UNITED STATES DEPARTMENT OF ENERGY'S SAVANNAH RIVER SITE'S BOUNDARY NEAR THE TOWN OF JACKSON IN AIKEN COUNTY THE "COACH AARON MANIGAULT MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "COACH AARON MANIGAULT MEMORIAL HIGHWAY".

Senator HUTTO objected to further consideration of the Concurrent Resolution.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**RECALLED AND COMMITTED**

S. 343 -- Senator Lourie: A CONCURRENT RESOLUTION TO REQUEST THE SOUTH CAROLINA BUDGET AND CONTROL BOARD TO REQUIRE ALL AGENCIES WITH INVESTIGATIVE AUTHORITY PURSUANT TO THE OMNIBUS ADULT PROTECTION ACT, OR ANY FEDERAL STATUTE, TO MAKE THEIR CASES OF ABUSE, NEGLECT, AND EXPLOITATION OF

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VULNERABLE ADULTS WHICH WERE SUBSTANTIATED OR RESULTED IN CRIMINAL CONVICTIONS AVAILABLE ON THE STATE'S WEBSITE IN A FORMAT TO BE DEVELOPED BY THE ADULT PROTECTION COORDINATING COUNCIL.

Senator ALEXANDER moved that the Concurrent Resolution be recalled from the Committee on Finance.

The Resolution was recalled from the Committee on Finance.

Senator ALEXANDER moved that the Concurrent Resolution be committed to the Committee on Judiciary.

The Resolution was committed to the Committee on Judiciary.

**MOTION ADOPTED**

On motion of Senator L. MARTIN, the Senate agreed to dispense with the Motion Period.

**THE SENATE PROCEEDED TO THE SPECIAL ORDERS.**

**AMENDED, READ THE SECOND TIME**

**RETURNED TO THE CATEGORY OF SPECIAL ORDER**

H. 3583 -- Reps. Funderburk, Lucas and Gunn: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED ON FEBRUARY 4, 2009, BY THE STUDENTS OF MIDWAY ELEMENTARY, BETHUNE ELEMENTARY, MOUNT PISGAH ELEMENTARY, BARON DEKALB ELEMENTARY, NORTH CENTRAL MIDDLE, AND NORTH CENTRAL HIGH SCHOOLS WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

The Senate proceeded to a consideration of the Joint Resolution, the question being the second reading of the Joint Resolution.

Senator L. MARTIN spoke on the Resolution.

**Amendment No. 1B**

Senators SETZLER, L. MARTIN, PEELER and S. MARTIN proposed the following Amendment No. 1B (SNOWDAY2), which was adopted:



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Amend the bill as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. Pursuant to the provisions of Section 59-1-425(C) of the 1976 Code, up to three school days missed by students residing in school districts that closed due to snow, extreme weather, or other disruptions beginning on March 2, 2009, are waived from the requirement that full school days missed due to snow, extreme weather, or other disruptions be made up. /

Renumber sections to conform.

Amend title to conform.

Senator PEELER explained the amendment.

**PRESIDENT *Pro Tempore* PRESIDES**

At 3:18 P.M., Senator McCONNELL assumed the Chair.

Senator PEELER explained the amendment.

Senator RYBERG argued contra to the adoption of the amendment.

Senator RYBERG moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 9; Nays 34**

**AYES**

Campsen	Coleman	Ford
Hutto	Land	Leventis
Malloy	Pinckney	Ryberg

**Total--9**

**NAYS**

Alexander	Anderson	Bright
Bryant	Campbell	Cromer
Davis	Fair	Grooms
Hayes	Jackson	Knotts
Leatherman	Lourie	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	Matthews
McConnell	McGill	Mulvaney
Nicholson	O'Dell	Peeler

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Rankin	Reese	Rose
Scott	Setzler	Sheheen
Shoopman	Thomas	Verdin
Williams		

**Total--34**

The Senate refused to table the amendment. The question then was the adoption of the amendment.

The amendment was adopted.

**Amendment No. 2**

Senator HUTTO proposed the following Amendment No. 2 (3583R002.CBH), which was adopted:

Amend the resolution, as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_\_. School districts that did not close due to snow on March 2, 2009, may close on a date of the school district's choosing. Any requirements to make up the school day missed by students on the date chosen by a school district pursuant to this section are waived./

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

**Amendment No. 3**

Senator RYBERG proposed the following Amendment No. 3 (3583R005.WGR), which was tabled:

Amend the resolution, as and if amended, by striking the resolution in its entirety and inserting:

/ A BILL

TO AMEND SECTION 59-1-425 OF THE 1976 CODE, RELATING TO THE LENGTH OF THE SCHOOL TERM, TO ENHANCE THE AUTHORITY OF BOARDS OF TRUSTEES TO ESTABLISH THE SCHOOL CALENDAR BY DELETING PROVISIONS RELATED TO THE LENGTH OF THE SCHOOL TERM AND PROCEDURES TO EXCUSE DAYS MISSED

[SJ]

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BECAUSE OF SNOW, EXTREME WEATHER CONDITIONS, OR OTHER DISRUPTIONS.

Be it enacted by the General Assembly:

SECTION 1. Section 59-1-425 of the 1976 Code is amended to read:

“Section 59-1-425. (A) Each local school district board of trustees of the State shall have the authority to establish an annual school calendar for teachers, staff, and students. ~~The statutory school term is one hundred ninety days annually and shall consist of a minimum of one hundred eighty days of instruction covering at least nine calendar months.~~ However, beginning with the 2007-2008 school year the opening date for students must not be before the third Monday in August, except for schools operating on a year-round modified school calendar. Three days must be used for collegial professional development based upon the educational standards as required by Section 59-18-300. The professional development shall address, at a minimum, academic achievement standards including strengthening teachers’ knowledge in their content area, teaching techniques, and assessment. ~~No more than two days may be used for preparation of opening of schools and the remaining five days may be used for teacher planning, academic plans, and parent conferences.~~ The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.

~~(B) Notwithstanding any other provisions of law to the contrary, all school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four by four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for~~

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~~seventh through twelfth graders must be scheduled at an alternative time.~~

~~(C) The General Assembly by law may waive the requirements of making up missed days or, by law, may authorize the school board of trustees to forgive up to three days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. A waiver granted by the local board of trustees of the requirement for making up missed days also must be authorized through a majority vote of the local school board.~~

~~(D) If a school is closed early due to snow, extreme weather conditions, or other disruptions, the day may count towards the required minimum to the extent allowed by State Board of Education policy.~~

~~(E)~~(B) The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch.

~~(F)~~(C) Elementary and secondary schools may reduce the length of the instructional day to not less than three hours for not more than three days each school year for staff development, teacher conferences, or for the purpose of administering end-of-semester and end-of-year examinations.

~~(G)~~(D) Priority during the instructional day must be given to teaching and learning tasks. Class interruptions must be limited only to emergencies. Volunteer blood drives as determined by the principal may be conducted at times which would not interfere with classroom instruction such as study period, lunch period, and before and after school.

~~(H)~~(E) The State Board of Education may waive the school opening date requirement pursuant to subsection (A) of this section on a showing of good cause or for an educational purpose. For the purposes of this section:

(1) 'Good cause' means that schools in a district have been closed eight days per year during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

(2) 'Educational purpose' means a district establishes a need to adopt a different calendar for a:

(a) specific school to accommodate a special program offered generally to the student body of that school,

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(b) school that primarily serves a special population of students; or

(c) defined program within a school.

The state board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the state board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening date set forth in this subsection. Waiver requests for educational purposes may not be used to accommodate system-wide class scheduling preferences. Nothing in this subsection prohibits a district from offering supplemental or additional educational programs or activities outside of the calendar adopted under this section."

SECTION 2. This act takes effect upon approval of the Governor and applies beginning with the 2009-2010 school year, except that the deletions of subsections (B) and (C) provided by this act apply to the 2008-2009 school year and each school district has the discretion to determine whether school days missed due to snow, extreme weather conditions, or other disruptions must be made up. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 35; Nays 8**

**AYES**

Alexander	Anderson	Campsen
Coleman	Cromer	Davis
Fair	Ford	Hayes
Jackson	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	<i>Martin, S.</i>
Matthews	McConnell	McGill
Nicholson	O'Dell	Peeler
Pinckney	Rankin	Reese

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Rose  
Sheheen  
Verdin

Scott  
Shoopman  
Williams

Setzler  
Thomas

**Total--35**

**NAYS**

Bright  
Grooms  
Mulvaney

Bryant  
Hutto  
Ryberg

Campbell  
Massey

**Total--8**

The amendment was laid on the table.

**Amendment No. 4**

Senator MASSEY proposed the following Amendment No. 4 (3583R007.ASM), which was tabled:

Amend the resolution, as and if amended, by striking SECTIONS 2 and 3 and adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_\_. School districts may close for up to three days on dates of the school district's choosing. Any requirements to make up the school days missed by students on the dates chosen by a school district pursuant to this section are waived. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

**Objection**

With Senator MASSEY retaining the floor, Senator SHEHEEN asked unanimous consent to make a motion to amend the amendment to include the language, "For the 2008-2009 School Year,".

Senator RYBERG objected.

**Objection**

Senator MASSEY asked unanimous consent to make a motion to withdraw the amendment.

Senator RYBERG objected.

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Senator SETZLER moved to lay the amendment on the table.

The amendment was laid on the table.

**Amendment No. 5**

Senator MASSEY proposed the following Amendment No. 5 (3583R007A.ASM), which was adopted:

Amend the resolution, as and if amended, by striking SECTIONS 2 and 3 and adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_\_. School districts may close for up to three days on dates of the school district's choosing during the 2008-2009 school year. Any requirements to make up the school days missed by students on the dates chosen by a school district pursuant to this section are waived. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

The question then was the second reading of the Bill.

Senator RYBERG spoke on the motion.

Senator MULVANEY asked unanimous consent to make a motion to submit a further amendment for consideration.

There was no objection.

**Amendment No. 6**

Senator MULVANEY proposed the following Amendment No. 6 (3583R008.WGR), which was tabled:

Amend the resolution, as and if amended, by striking the resolution in its entirety and inserting:

/ A BILL

TO AMEND SECTION 59-1-425 OF THE 1976 CODE, RELATING TO THE LENGTH OF THE SCHOOL TERM, TO DELETE THE REQUIREMENT OF A UNIFORM START DATE; TO PROVIDE SCHOOL DISTRICTS MAY CLOSE FOR UP TO THREE DAYS ON DATES OF THE SCHOOL DISTRICT'S

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CHOOSING DURING THE 2008-2009 SCHOOL YEAR; AND TO WAIVE THE REQUIREMENT THAT THE SCHOOL DAY MISSED ON FEBRUARY 4, 2009, BY THE STUDENTS OF MIDWAY ELEMENTARY, BETHUNE ELEMENTARY, MOUNT PISGAH ELEMENTARY, BARON DEKALB ELEMENTARY, NORTH CENTRAL MIDDLE, AND NORTH CENTRAL HIGH BE MADE UP.

Be it enacted by the General Assembly:

SECTION 1. Section 59-1-425 of the 1976 Code is amended to read:

“Section 59-1-425. (A) Each local school district board of trustees of the State shall have the authority to establish an annual school calendar for teachers, staff, and students. The statutory school term is one hundred ninety days annually and shall consist of a minimum of one hundred eighty days of instruction covering at least nine calendar months. ~~However, beginning with the 2007-2008 school year the opening date for students must not be before the third Monday in August, except for schools operating on a year-round modified school calendar.~~ Three days must be used for collegial professional development based upon the educational standards as required by Section 59-18-300. The professional development shall address, at a minimum, academic achievement standards including strengthening teachers’ knowledge in their content area, teaching techniques, and assessment. No more than two days may be used for preparation of opening of schools and the remaining five days may be used for teacher planning, academic plans, and parent conferences. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.

(B) Notwithstanding any other provisions of law to the contrary, all school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make



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up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

(C) The General Assembly by law may waive the requirements of making up missed days or, by law, may authorize the school board of trustees to forgive up to three days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. A waiver granted by the local board of trustees of the requirement for making up missed days also must be authorized through a majority vote of the local school board.

(D) If a school is closed early due to snow, extreme weather conditions, or other disruptions, the day may count towards the required minimum to the extent allowed by State Board of Education policy.

(E) The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch.

(F) Elementary and secondary schools may reduce the length of the instructional day to not less than three hours for not more than three days each school year for staff development, teacher conferences, or for the purpose of administering end-of-semester and end-of-year examinations.

(G) Priority during the instructional day must be given to teaching and learning tasks. Class interruptions must be limited only to emergencies. Volunteer blood drives as determined by the principal may be conducted at times which would not interfere with classroom instruction such as study period, lunch period, and before and after school.

~~(H) The State Board of Education may waive the school opening date requirement pursuant to subsection (A) of this section on a showing of good cause or for an educational purpose. For the purposes of this section:~~

~~(1) 'Good cause' means that schools in a district have been closed eight days per year during any four of the last ten years because~~

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~~of severe weather conditions, energy shortages, power failures, or other emergency situations.~~

~~(2) 'Educational purpose' means a district establishes a need to adopt a different calendar for a:~~

~~(a) specific school to accommodate a special program offered generally to the student body of that school;~~

~~(b) school that primarily serves a special population of students; or~~

~~(c) defined program within a school.~~

~~The state board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the state board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening date set forth in this subsection. Waiver requests for educational purposes may not be used to accommodate system wide class scheduling preferences. Nothing in this subsection prohibits a district from offering supplemental or additional educational programs or activities outside of the calendar adopted under this section."~~

SECTION 2. School districts may close for up to three days on dates of the school district's choosing during the 2008-2009 school year. Any requirements to make up the school days missed by students on the dates chosen by a school district pursuant to this section are waived.

SECTION 3. Pursuant to the provisions of Section 59-1-425(C) of the 1976 Code, the requirement that the school day missed on February 4, 2009, by the students of Midway Elementary, Bethune Elementary, Mount Pisgah Elementary, Baron DeKalb Elementary, North Central Middle, and North Central High schools when the schools were closed due to snow is waived from the make-up requirement that full school days missed due to snow, extreme weather, or other disruptions be made up.

SECTION 4. This act takes effect upon approval of the Governor./

Renumber sections to conform.

Amend title to conform.

Senator MULVANEY explained the amendment.

Senator LOURIE moved to lay the amendment on the table.

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The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 29; Nays 12**

**AYES**

Alexander	Anderson	Campbell
Campsen	Coleman	Cromer
Fair	Ford	Hutto
Knotts	Leatherman	Lourie
Malloy	<i>Martin, L.</i>	Matthews
McConnell	McGill	Nicholson
O'Dell	Peeler	Rankin
Reese	Rose	Scott
Setzler	Sheheen	Thomas
Verdin	Williams	

**Total--29**

**NAYS**

Bright	Bryant	Davis
Grooms	Hayes	Land
Leventis	<i>Martin, S.</i>	Massey
Mulvaney	Ryberg	Shoopman

**Total--12**

The amendment was laid on the table.

The question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 37; Nays 3**

**AYES**

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Coleman	Cromer	Davis
Fair	Grooms	Hayes
Knotts	Land	Leatherman

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Lourie	Malloy	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	Matthews
McConnell	McGill	Mulvaney
Nicholson	O'Dell	Peeler
Rankin	Reese	Rose
Scott	Setzler	Sheheen
Shoopman	Thomas	Verdin
Williams		

**Total--37**

**NAYS**

Hutto	Leventis	Ryberg
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**Total--3**

The Bill was read the second time, passed and ordered to a third reading.

The Bill was returned to the category of Special Order on the Calendar.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED  
AMENDED, READ THE SECOND TIME**

**RETURNED TO THE CATEGORY OF SPECIAL ORDER**

S. 186 -- Senators McConnell and Campsen: A BILL TO AMEND SECTION 15-77-300, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALLOWANCE OF ATTORNEY'S FEES IN STATE-INITIATED ACTIONS, SO AS TO LIMIT THE FEE TO A REASONABLE TIME EXPENDED AT A REASONABLE RATE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

Senator MARTIN spoke on the Bill.

**Amendment No. P-1**

Senators CAMPSSEN, DAVIS, ROSE, MARTIN proposed the following Amendment No. P-1 (JUD0186.016), which was adopted:

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Amend the Committee Report as and if amended, page [186-1], by striking lines 32 through 36 in their entirety.

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

Senator L. MARTIN spoke on the amendment.

Senator L. MARTIN moved that the amendment be adopted.

The amendment was adopted.

The Judiciary Committee proposed the following amendment (JUD0186.005), which was adopted:

Amend the bill as and if amended, page 1, by striking line 30 in its entirety and inserting:

/ substantial justification in pressing its claim /

Amend the bill further, as and if amended, page 1, by striking lines 35-36 in their entirety and inserting:

/ claim against the party if the agency follows a statutory or constitutional mandate that has not been invalidated by a court of competent /

Amend the bill further, as and if amended, page 2, by striking line 3 in its entirety and inserting:

/ (5) the customary legal fees for similar services; and

(6) whether the results were so exceptional that the case deserves an enhanced lodestar analysis. /

Renumber sections to conform.

Amend title to conform.

The committee amendment, as perfected, was adopted as follows:

### **Amendment No. 3**

Senators CAMPSEN, DAVIS and ROSE proposed the following Amendment No. 3 (JUD0186.015), which was withdrawn:

Amend the Bill as and if amended, page 2, lines 6-8, by striking lines 6-8 in their entirety and inserting:

/ However, in no event shall a prevailing party be allowed to shift attorney's fees pursuant to this section that exceed attorneys fees the party would have to pay if such fees were not shifted to a state agency pursuant to this section. /

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Renumber sections to conform.  
Amend title to conform.

Senator CAMPSSEN explained the amendment.

On motion of Senators CAMPSSEN and HUTTO, with unanimous consent, Amendment No. 3 was withdrawn.

**Amendment No. 3A**

Senators ROSE and CAMPSSEN proposed the following Amendment No. 3A (JUD0186.018), which was adopted:

Amend the Bill, as and if amended, page 2, by striking line 8 in its entirety, and inserting therein the following:

/ party has contracted to pay counsel personally for work on the litigation. The /

Renumber sections to conform.  
Amend title to conform.

The amendment was adopted.

**Amendment No. 4**

Senator MALLOY proposed the following Amendment No. 4 (JUD0186.014), which was withdrawn:

Amend the Bill as and if amended, after line 19, page 2, by striking SECTION 2 in its entirety and inserting appropriately numbered sections as follows:

/ “Chapter 85

South Carolina False Claims Act

Section 15-85-10. This chapter may be cited as the ‘South Carolina False Claims Act’.

Section 15-85-20. As used in this chapter, the term:

(1) ‘Attorney General’ means the South Carolina Attorney General, any of his Assistant Attorneys General, or any employee, investigator, or auditor employed by the Attorney General.

(2) ‘Documentary material’ includes the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret data compilations, and other products of discovery.

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(3) 'Guard' means the South Carolina National Guard.

(4) 'Investigation' means an inquiry conducted by an investigator for the purpose of ascertaining whether a person is or has been engaged in a violation of this act.

(5) 'Investigator' means a person who is charged by the Attorney General with the duty of conducting an investigation pursuant to this act, or an officer or employee of the State acting pursuant to the direction and supervision of the Attorney General with an investigation.

(6) 'Medicaid Fraud Control Unit' means the South Carolina Medicaid Fraud Control Unit certified pursuant to federal law.

(7) 'Proceeds' of the action or settlement means the damages derived from the action or settlement and shall not include fines, penalties, costs, expenses, attorney's fees, or other recoveries.

(8) 'Person' means any natural person, corporation, joint venture, partnership, unincorporated association, or any other legal entity.

(9) 'Product of discovery' includes:

(a) the original or duplicate of a deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by a method of discovery in a judicial or administrative proceeding of an adversarial nature;

(b) a digest, analysis, selection, compilation, or derivation of an item listed in item (a); and

(c) an index or other manner of access to an item listed in item (a).

(10) 'Relator' means a person who brings a civil action pursuant to this chapter.

(11) 'State' means the State of South Carolina.

Section 15-85-30. (A) As used in this section, the terms:

(1) 'Knowing' and 'knowingly' mean, with respect to information, that a person:

(a) has actual knowledge of the information;

(b) acts in deliberate ignorance of the truth or falsity of the information; or

(c) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(2) 'Claim' includes a request or demand, whether pursuant to a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the State provides a portion of the money or property which is requested or demanded, or if the State

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will reimburse a contractor, grantee, or other recipient for a portion of the money or property which is requested or demanded.

(B) Notwithstanding another provision of law, a person who:

(1) knowingly presents, or knowingly causes to be presented, to an officer or employee of the State or a member of the guard a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the State;

(3) conspires to defraud the State by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the State and, intending to defraud the State or wilfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the State and, intending to defraud the State, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the State, or a member of the guard, who lawfully may not sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State, is liable to the State for a civil penalty of not less than five thousand five hundred dollars and not more than eleven thousand dollars, plus three times the amount of damages which the State sustains because of the act of that person. A person who violates the provisions of this subsection is also liable to the State for the costs of a civil action brought to recover a penalty or damages.

(C) The provisions of this section do not apply to claims, records, or statements made pursuant to the South Carolina Income Tax Act.

Section 15-85-40. (A) The Attorney General shall diligently investigate a civil violation pursuant to Section 15-85-30. If the Attorney General finds that a person has violated or is violating the provisions of Section 15-85-30, the Attorney General may bring a civil



action pursuant to this section against the person. An action brought under this section shall be filed in Richland County.

(B) For an action by a private person:

(1) A person may bring a civil action for a violation of Section 15-85-30 for the person and for the State. The action must be brought in the name of the State. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting. An action brought under this section shall be filed in Richland County.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses must be served on the State. The complaint and all attachments must be filed in camera, must remain under seal for at least sixty days, and may not be served on the defendant until the court orders it served. The State may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information.

(3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal pursuant to item (2). The motions may be supported by affidavits or other submissions in camera. The defendant may not be required to respond to a complaint filed pursuant to this section until thirty days after the complaint is unsealed and served on the defendant.

(4) Before the expiration of the sixty-day period or an extension obtained pursuant to item (3), the State shall:

(a) proceed with the action, in which case the action must be conducted by the State, or

(b) notify the court that it declines to take over the action, and the person bringing the action has the right to conduct the action.

(5) When a person brings an action pursuant to this subsection, no person other than the State may intervene or bring a separate, related action based on the facts underlying the pending action.

(C) In Qui Tam actions:

(1) If the State proceeds with the action, it has the primary responsibility for prosecuting the action, and is not bound by an act of the person bringing the action. The person has the right to continue as a party to the action, subject to the limitations provided in item (2).

(2)(a) The State may dismiss the action notwithstanding the objections of the person initiating the action if the person has been

notified by the State of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(b) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, a hearing may be held in camera.

(c) Upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation including, but not limited to:

- (i) limiting the number of witnesses the person may call;
- (ii) limiting the length of the testimony of the witnesses;
- (iii) limiting the person's cross-examination of witnesses; or
- (iv) otherwise limiting the participation by the person in the

litigation.

(d) Upon an adequate showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the State elects not to proceed with the action, the person who initiated the action has the right to conduct the action. If the State requests, it must be served with copies of all pleadings filed in the action and must be supplied with copies of all deposition transcripts at the state's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may permit the State to intervene at a later date upon a showing of good cause.

(4) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. This showing must be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the State pursued the criminal or civil investigation or proceedings with reasonable diligence and proposed discovery in the civil action will

interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding the provisions of subsection (B), the State may elect to pursue its claim through an alternate remedy available to the State, including an administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued in another proceeding, the person initiating the action has the same rights in the proceeding as the person would have had if the action had continued pursuant to the provisions of this section. A finding of fact or conclusion of law made in another proceeding that has become final is conclusive on all parties to an action pursuant to the provisions of this section. A finding or conclusion is final pursuant to the provisions of this section if it has been finally determined on appeal to the appropriate court, if all time for filing an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(D) In an award to a Qui Tam plaintiff:

(1) If the State proceeds with an action brought by a person pursuant to subsection (B), the person shall receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action and subject to the limitations of this item. When the action is one the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Legislative Audit Council's report, hearing, audit, or investigation, or from the news media the court may award such sums as it considers appropriate, but in no case more than fifteen percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Payment to a person pursuant to the provisions of this item must be made from the proceeds. This person also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. The State also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred by the Attorney General, including reasonable attorney's fees and costs, which shall be paid directly to the Attorney General. All expenses, fees, and costs must be awarded against the defendant.

(2) If the State does not proceed with an action pursuant to this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount may not be less than twenty-five percent and not more than forty percent of the proceeds of the action or settlement and must be paid out of the proceeds. The person also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(3) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of Section 15-85-30 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action, which the person would otherwise receive pursuant to subsection (D)(1) or (2), taking into account the role of that person in advancing the case to litigation and relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his role in the violation of Section 15-85-30, that person must be dismissed from the civil action and shall not receive a share of the proceeds of the action. A dismissal does not prejudice the right of the State or other relators to continue the action.

(4) If the State does not proceed with the action, and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney's fees and expenses if the defendant prevails in the action and the court finds by clear and convincing evidence that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(E)(1) A court does not have jurisdiction over an action brought by a former or present member of the guard pursuant to subsection (B) against a member of the guard arising out of the person's service in the guard.

(2) A court does not have jurisdiction over an action brought pursuant to subsection (B) against a member of the General Assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information known to the State when the action was brought. 'Exempt official' means the following officials in state service: directors of state agencies, the Adjutant General, the Assistant Adjutant General, members of state boards and commissions, and all

other positions appointed by the Governor by and with the consent of the Senate.

(3) A person may not bring an action pursuant to subsection (B), which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party.

(4) A court does not have jurisdiction over an action pursuant to this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Legislative Audit Council's report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information. 'Original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action pursuant to this section which is based on the information.

(F) The State is not liable for expenses that a person incurs in bringing an action pursuant to this section.

(G) An employee who is discharged, demoted, suspended, threatened, harassed, or in another manner discriminated against in the terms and conditions of employment by his employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action pursuant to this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed pursuant to this section, is entitled to all relief necessary to make the employee whole. Relief includes reinstatement with the seniority status the employee would have had but for the discrimination; double the amounts of back pay, interest on the back pay, and compensation for special damages sustained as a result of the discrimination including litigation costs; and reasonable attorney's fees. An employee may bring an action in the appropriate circuit court for the relief provided in this subsection.

Section 15-85-50. (A) A subpoena requiring the attendance of a witness at a trial or hearing conducted pursuant to Section 15-85-40 may be served at any place in the State.

(B) A civil action pursuant to Section 15-85-40 may not be brought the latter of:

(1) more than ten years after the date on which the violation of Section 15-85-30 is committed; or

(2) more than six years after the date when facts material to the right of action are known or reasonably should have been known by the official of the State charged with responsibility to act in the circumstances, but in no event more than fifteen years after the date on which the violation is committed.

(C) In an action brought pursuant to Section 15-85-40, the State is required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(D) Notwithstanding another provision of law, a final judgment rendered in favor of the State in a criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, estops the defendant from denying the essential elements of the offense in an action that involves the same transaction as in the criminal proceeding and which is brought pursuant to Section 15-85-40(A) or (B).

Section 15-85-60. (A) Whenever the Attorney General has reason to believe that a person may be in possession, custody, or control of documentary material or information relevant to an investigation, the Attorney General, before commencing a civil proceeding pursuant to this chapter, may issue in writing and cause to be served upon a person, a civil investigative demand requiring the person to:

- (1) produce documentary material for inspection and copying;
- (2) answer, in writing, written interrogatories with respect to documentary material or information;
- (3) give oral testimony concerning documentary material or information; or
- (4) furnish a combination of material, answers, or testimony.

(B) When a civil investigative demand is an express demand for a product of discovery, the Attorney General shall cause to be served, in a manner authorized by this section, a copy of the demand upon the person from whom the discovery was obtained and shall notify the person to whom the demand is issued of the date on which the copy was served.

(C) Each civil investigative demand issued pursuant to subsection (A) must state the nature of the conduct constituting an alleged violation, which is under investigation, and the applicable provision of law alleged to be violated.

(D) If the demand is for the production of documentary material, the demand must:

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(1) describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified;

(2) prescribe a return date for each class, which will provide a reasonable period of time within which the material demanded may be assembled and made available for inspection and copying; and

(3) identify the investigator to whom the material must be made available.

(E) If the demand is for answers to written interrogatories, the demand must:

(1) list with specificity the written interrogatories to be answered;

(2) prescribe dates at which time answers to written interrogatories must be submitted; and

(3) identify the investigator to whom the answers must be submitted.

(F) If the demand is for the giving of oral testimony, the demand must:

(1) prescribe a date, time, and place at which oral testimony must be commenced;

(2) identify an investigator who shall conduct the examination and identify the custodian to whom the transcript of the examination must be submitted;

(3) specify that the attendance and testimony are necessary to the conduct of the investigation;

(4) notify the person receiving the demand of the right to be accompanied by an attorney and another representative; and

(5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(G) A civil investigative demand issued pursuant to this section, which is an express demand for a product of discovery, may not be returned or returnable until twenty days after a copy of the demand is served upon the person from whom the discovery was obtained.

(H) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued pursuant to this section must be a date that is not less than seven days after the date on which the demand is received, unless the Attorney General determines that exceptional circumstances are present which warrant the commencement of the testimony within a lesser period of time.

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(I) The Attorney General shall not authorize the issuance pursuant to this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(J) A civil investigative demand issued under subsection (A) may not require the production of documentary material, the submission of answers to written interrogatories, or the giving of oral testimony if the material, answers, or testimony would be protected from disclosure pursuant to the standards applicable to:

(1) subpoenas or subpoenas duces tecum issued by a court of this State to aid in grand jury investigations; or

(2) discovery requests pursuant to the Rules of Civil Procedure, to the extent that the application of these standards to a demand is appropriate and consistent with the provisions and purposes of this section.

(K) Except as provided in this section, a demand which is an express demand for a product of discovery supersedes an inconsistent order, rule, or provision of law preventing or restraining disclosure of a product of discovery to another person. Disclosure of a product of discovery pursuant to an express demand does not constitute a waiver of any right or privilege which the person making the disclosure may be entitled to invoke to resist discovery of trial preparation materials.

Section 15-85-70. (A)(1) A civil investigative demand issued pursuant to Section 15-85-60(A) may be served by an investigator, or by another person authorized to serve process on individuals within South Carolina.

(2) A demand or petition filed pursuant to Section 15-85-120 may be served upon a person who is not found within South Carolina in a manner as the Rules of Civil Procedure and applicable statutory law prescribe for service of process outside South Carolina. To the extent that the courts of this State can assert jurisdiction over a person consistent with due process, the courts of this State have the same jurisdiction to take an action respecting compliance with this section by a person that the court would have if the person were personally within the jurisdiction of the court.

(B) Service of a civil investigative demand issued pursuant to Section 15-85-60 or of a petition filed pursuant to Section 15-85-120 may be made upon a partnership, corporation, association, or other legal entity by:



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(1) delivering an executed copy of the demand or petition to a partner, executive officer, managing agent, general agent, or registered agent of the partnership, corporation, association, or entity;

(2) delivering an executed copy of the demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(3) depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the partnership, corporation, association, or entity at its principal office or place of business.

(C) Service of a demand or petition pursuant to Section 15-85-60, or filed pursuant to Section 15-85-120, may be made on a natural person by:

(1) delivering an executed copy of the demand or petition to the person; or

(2) depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(D) A verified return by the individual serving a civil investigative demand issued pursuant to Section 15-85-60 or a petition filed pursuant to Section 15-85-120 providing the manner of service is proof of service. In the case of service by registered or certified mail, the return is accompanied by the return post office receipt of delivery of the demand.

Section 15-85-80. (A) The production of documentary material in response to a civil investigative demand served pursuant to Section 15-85-60 must be made under a sworn certificate, in a form as the demand designates, by:

(1) the person to whom the demand is directed in the case of a natural person; or

(2) a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person, in the case of a person other than a natural person.

(B) The certificate must state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the investigator identified in the demand.

(C) A person upon whom a civil investigative demand for the production of documentary material has been served pursuant to

Section 15-85-60 shall make the material available for inspection and copying to the investigator identified in the demand at the main place of business of the person, or at another place as the investigator and the person may agree and prescribe in writing, or as the court may direct pursuant to Section 15-85-120(A). The material must be made available on the return date specified in the demand, or on a later date as the investigator may prescribe in writing. The person, upon written agreement between the person and the investigator, may substitute copies for originals of all or any part of the material.

Section 15-85-90. (A) Each interrogatory in a civil investigative demand served pursuant to Section 15-85-60 must be answered separately and fully in writing under oath and must be submitted under a sworn certificate, in a form as the demand designates by:

(1) the person to whom the demand is directed in the case of a natural person; or

(2) the person or persons responsible for answering each interrogatory, in the case of a person other than a natural person.

(B) If an interrogatory is objected to, the reasons for the objection must be stated in the certificate instead of an answer. The certificate must state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that information is not furnished, the information must be identified and reasons provided with particularity regarding the reasons why the information was not furnished.

Section 15-85-100. (A) The examination of a person pursuant to a civil investigative demand for oral testimony served pursuant to Section 15-85-60 must be taken before an officer authorized to administer oaths and affirmations by the laws of the State or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness under oath or affirmation and, personally or by someone acting under the direction of the officer and in the officer's presence, shall record the testimony of the witness. The testimony must be taken stenographically and must be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection does not preclude the taking of testimony by another means authorized by, and in a manner consistent with, the Rules of Civil Procedure or other applicable statutory law.

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(B) The investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and another representative of the person giving the testimony, the attorney for the State, a person who may be agreed upon by the attorney for the State and the person giving the testimony, the officer before whom the testimony is to be taken, and a stenographer taking the testimony.

(C) The oral testimony of a person taken pursuant to a civil investigative demand served pursuant to Section 15-85-60 must be taken in the county within which the person resides, is found, or transacts business, or in another place as may be agreed upon by the investigator conducting the examination and the person.

(D) When the testimony is fully transcribed, the investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless the examination and reading are waived by the witness. Changes in form or substance that the witness desires to make must be entered and identified upon the transcript by the officer or the investigator, with a statement of the reasons given by the witness for making the changes. The transcript must then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons given.

(E) The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or investigator shall promptly deliver the transcript or send the transcript by registered or certified mail to the custodian.

(F) Upon payment of reasonable charges, the investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General may, for good cause, limit the witness to inspection of the official transcript of his testimony.

(G) A person compelled to appear for oral testimony pursuant to a civil investigative demand issued pursuant to Section 15-85-60 may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, with respect to a question asked of the person. The person or counsel may object on the record to a question,

in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on the grounds of a constitutional or other legal right or privilege, including the privilege against self-incrimination. If the person refuses to answer a question, a petition may be filed in circuit court pursuant to Section 15-85-120(A) for an order compelling the person to answer the question.

(H) A person appearing for oral testimony pursuant to a civil investigative demand issued pursuant to Section 15-85-60 is entitled to the same fees and allowances that are paid to witnesses in the circuit court.

Section 15-85-110. (A) The Attorney General shall serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received pursuant to this chapter.

(B) Except as otherwise provided in this section, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies of these, while in the possession of the custodian, are available for examination. The prohibition on the availability of material, answers, or transcripts does not apply if consent is given by the person who produced the material, answers, or transcripts, or, in the case of a product of discovery produced pursuant to an express demand for the material, consent is given by the person from whom the discovery was obtained. Nothing in this subsection is intended to prevent disclosure to, at the discretion of the Attorney General, the General Assembly, including a committee or subcommittee of the General Assembly, or to another state agency for use by an agency in furtherance of its statutory responsibilities, or to another state Attorney General, or to a federal investigative entity, or to an appropriate investigative entity of another state. Disclosure of information to another entity is allowed only upon application, made by the Attorney General to a circuit court, showing substantial need for the use of the information by the agency in furtherance of its statutory responsibilities.

(C) While in the possession of the Attorney General and under reasonable terms and conditions as the Attorney General shall prescribe:

(1) documentary material and answers to interrogatories must be available for examination by the person who produced the material or answers, or by a representative for that person authorized by that person to examine the material and answers; and

(2) transcripts of oral testimony must be available for examination by the person who produced the testimony, or by a representative of that person authorized by that person to examine the transcripts.

Section 15-85-120. (A) When a person fails to comply with a civil investigative demand issued pursuant to Section 15-85-60, or whenever satisfactory copying or reproducing of material requested in the demand cannot be done, and the person refuses to surrender the material, the Attorney General may file, in the circuit court of a county in which the person resides, is found, or transacts business, and serve upon the person a petition for an order of the court for the enforcement of the civil investigative demand.

(B) A person who has received a civil investigative demand issued pursuant to Section 15-85-60 may file, in the circuit court of a county within which the person resides, is found, or transacts business, and serve upon the investigator identified in the demand a petition for an order of the court to modify or set aside the demand. In the case of a petition addressed to an express demand for a product of discovery, a petition to modify or set aside the demand may be brought only in the circuit court of the county in which the proceeding in which discovery was obtained or was last pending. A petition pursuant to this subsection must be filed within:

(1) twenty days after the date of service of the civil investigative demand, or at a time before the return date specified in the demand, whichever date is earlier; or

(2) a longer period as may be prescribed in writing by an investigator identified in the demand.

(C) The petition must specify each ground upon which the petitioner relies in seeking relief pursuant to subsection (B) and may be based upon failure of the demand to comply with the provisions of this chapter or upon a constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with the portion of the demand not sought to be modified or set aside.

(D) In the case of a civil investigative demand issued pursuant to Section 15-85-60, which is an express demand for a product of discovery, the person from whom discovery was obtained may file, in the circuit court of the county in which the proceeding in which

discovery was obtained or was last pending, and serve upon an investigator identified in the demand and upon the recipient of the demand, a petition for an order of the court to modify or set aside those portions of the demand requiring production of a product of discovery. A petition pursuant to this subsection must be filed within:

(1) twenty days after the date of service of the civil investigative demand, or at a time before the return date specified in the demand, whichever date is earlier; or

(2) a longer period as may be prescribed in writing by an investigator identified in the demand.

(E) The petition shall specify each ground upon which the petitioner relies in seeking relief upon subsection (D) and may be based upon failure of the portions of the demand from which relief is sought to comply with the provisions of this section or upon a constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed from compliance with the demand.

(F) At a time during which a custodian is in custody or control of documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by a person in compliance with a civil investigative demand issued pursuant to Section 15-85-60, the person, and in the case of an express demand for a product of discovery, the person from whom discovery was obtained, may file, in the circuit court of the county within which the office of the custodian is situated, and serve upon such custodian a petition for an order of the court to require the performance by the custodian of a duty imposed upon the custodian by this chapter.

(G) When a petition is filed in a circuit court pursuant to this section, the court has jurisdiction to hear and determine the matter so presented, and to enter orders as may be required to carry out the provisions of this section. A final order entered is subject to appeal in the same manner as appeals of other final orders in civil matters. A disobedience of a final order entered pursuant to this section by a court is punished as a contempt of the court.

(H) Documentary material, answers to written interrogatories, or oral testimony provided pursuant to a civil investigative demand issued pursuant to Section 15-85-60 is exempt from disclosure under the South Carolina Administrative Procedures Act.

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Section 15-85-130. (A) There is created the State False Claims Act Investigation and Prosecution Fund as a special fund in the State Treasury, to be administered by the Attorney General. All proceeds of an action or settlement of a claim brought pursuant to this chapter must be deposited in the fund.

(B) Monies in the fund must be allocated as follows:

(1) twenty-five percent of the monies must be retained by the Attorney General; and

(2) the remaining seventy-five percent of the monies in the fund must be used for payment of awards, calculated on the full amount, to Qui Tam plaintiffs and as otherwise specified in this chapter.

(C) The Attorney General shall make disbursements of funds as provided in court orders setting awards, fees, and expenses. The Attorney General shall transfer fund balances in excess of those required to the General Fund; however, fund balances related to the South Carolina Medicaid Program shall be transferred to the Department of Health and Human Services.

Section 15-85-140. The Rules of Civil Procedure apply to all proceedings pursuant to this chapter, except when inconsistent with the provisions of this chapter.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections,

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items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

On motion of Senator MALLOY, with unanimous consent, the amendment was withdrawn.

The question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 41; Nays 0**

**AYES**

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Cromer	Davis	Fair
Ford	Grooms	Hayes
Hutto	Jackson	Knotts
Land	Leatherman	Leventis
Lourie	Malloy	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	Matthews
McConnell	McGill	Mulvaney
Nicholson	Peeler	Pinckney
Rankin	Reese	Rose
Ryberg	Scott	Setzler
Sheheen	Shoopman	Thomas
Verdin	Williams	

**Total--41**

**NAYS**

**Total--0**



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The Bill was read the second time, passed and ordered to a third reading.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Reappointment, Marlboro County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Gail R. McInnis, 1622 Tatum Highway, Clio, SC 29525

**ADJOURNMENT**

At 5:17 P.M., on motion of Senator L. MARTIN, the Senate adjourned to meet tomorrow at 11:00 A.M.

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